SUPREME COURT OF THE UNITED STATES.

No. 295.

THE UNITED STATES, APPELLANTS,

vs.

THE STEAMER LELIA, HER TACKLE, APPAREL, &c.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 *Libel of Information.—Filed June 20th, 1865.*

To the honorable the judges of the circuit court of the United States, for the sixth judicial circuit and eastern district of Louisiana:

The libel of information of Rufus Waples, attorney of the United States for the eastern district of Louisiana, who prosecutes for the said United States in this behalf, and being here present in court, in his own proper person, in the name and behalf of the said United States of America, and Charles Black, sr., informant, against the steamer Lelia, her tackle, apparel, and furniture, hereinafter described, and against all persons intervening for their interest therein, in a case of seizure and forfeiture, alleges, propounds, and declares as follows:

I. That Cuthbert Bullitt, esq., marshal of the United States for the said district, under written authority given him by the said attorney, in compliance with instructions issued by the Attorney General of the United States to the district attorneys thereof, and by virtue of the act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes," heretofore, that is to say, on the the 15th day June, in the year one thousand eight hundred and sixty-five, seized as forfeited to the United States, at New Orleans, within said district, and within the jurisdiction of this court, the steamer Lelia, her tackle, apparel, machinery, furniture, &c.

2 II. That by the act of the Congress of the United States, approved August 6, 1861, entitled "An act to confiscate property used for insurrectionary purposes," it was provided, "that if, during the present or any future insurrection against the government of the United States, after the President of the United States shall have declared, by proclamation, that the laws of the United States are opposed, and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law, any person or persons, his, her, or their agent, attorney, or employee, shall purchase or acquire, sell or give, any property of whatever kind or description, with intent to employ the same, or suffer the same to be used or employed, in aiding, abetting, or promoting such rebellion or resistance to the laws, or any person or persons engaged therein; or if any person or persons, being the owner or owners of any such property, shall knowingly use or employ, or consent to the use or employment of the same as aforesaid, all such property is hereby declared to be lawful subject of prize and capture wherever found; and it shall be the duty of the President of the United States to cause the same to be seized, confiscated, and condemned."

III. That the President of the United States did, on the 15th of April, 1861, declare by proclamation, "that the laws of the United States are opposed and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial

proceedings, or by the power vested in the marshals by law;" and that on the 16th of August, 1861, he did reiterate said proclamation, and did declare that "such insurrection" still existed and had not been suppressed.

IV. 1. That the property herein above described was used and employed knowingly by the owner or owners thereof, in aiding, abetting, and promoting the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of the said act, and after the public proclamations by the President above mentioned, and after the 16th day of August, 1861, by being used in the transportation of troops of the so-called Confederate States, in armed rebellion against the government of the United States, and in the transportation of munitions of war and supplies for the said confederate troops.

2. That the property herein described was used and employed knowingly by the owner or owners thereof, in aiding and abetting persons engaged in the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used in transporting troops of the so-called confederate government, and in transporting ammunition, supplies, &c., for the use of the so-called confederate troops.

3. That the said property was purchased and acquired, and sold and given, by the owner or owners thereof, or by his, her, or their agent or employee, with intent to use or employ the same for the purpose of aiding, abetting, and promoting the said insurrection and resistance to the laws, after the approval of said act, and after the public proclamations above mentioned, and after the 16th day of August, 1861, by being used in transporting confederate troops, in armed rebellion against the government of the United States, and in transporting munitions of war and supplies for the so-called confederate government.

4. That the owner or owners of the said property did knowingly consent to the use or employment of it for the purpose of aiding and abetting and promoting said insurrection and resistance to the laws, or of aiding, abetting, and promoting persons engaged therein, after the approval of said act, and after the proclamations above mentioned, and after the 16th day of August, 1861, by permitting the use as aforesaid.

5. That the owner or owners of said proporty, his, her, or their agent or employee, did suffer said property to be used or employed in aiding, abetting, and promoting the insurrection proclaimed by the President as aforesaid, and in aiding, abetting, or promoting a person or persons engaged in said insurrection, after the approval of act above mentioned, and after the proclamation of the President, duly made public on the 16th day of August, 1861, by consenting to the use of the property as aforesaid.

V. That by reason of the premises the property herein described became and was forfeited to the United States, and ought to be con-

fiscated and condemned to the use of the said United States as enemy property.

Wherefore, the said attorney, in the name and behalf of the United States of America, prays that process of monition may issue against the said property and the owner or owners thereof, and against all persons interested or claiming an interest therein, warning them at some early day, to be named therein, to appear and answer
3 this libel of information; and that an order of publication may be made in the usual form; and that all due proceedings being had, this honorable court may be pleased to decree, for the condemnation and forfeiture of the said property to the use and ownership of the said United States, and of Charles Black, sr., informant. And he prays for such further relief as the court is competent to give in the premises.

(Signed) RUFUS WAPLES,
U. S. Att'y for Eastern Dist. La.

Filed June 20th, 1866.

4 *Order for publication.*

United States circuit court for the sixth judicial circuit and eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER LELIA, her tackle, apparel, and furniture. } No. 3,588.

Whereas the steamer Lelia, her tackle, apparel, and furniture described in the libel filed by the district attorney, and now of record in this court, and all the right, title, and interest therein, has been seized by the marshal of the United States for the eastern district of Louisiana, by virtue of an act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes;" and whereas the United States attorney for the eastern district of La. did, on this 20th day of June, A. D. 1865, file a libel of information in this court praying the condemna-
5 tion of said property under the act aforesaid, and that process of monition issue against the owner and owners of said property, and all persons interested or claiming an interest therein, warning them at some early day to appear and answer said information.

It is therefore, on this 20th June, in the year of our Lord eighteen hundred and sixty-five, ordered that notice be given to the owner and owners of said property, and all persons interested or claiming an interest therein, to appear and answer this information on the 10th day of July, 1865, and show cause, if any they have, why said property and the right, title, and interest therein should not be condemned and sold according to law; and that notice be given by posting a copy of this order upon the front door of the court house of this

district, and by publication in the Picayune newspaper twice a week previous to said 10th day of July, A. D. 1865; the first publication to be on or before the 26th instant.

6 New Orleans, June 20th, 1865.

(Signed) E. H. DURELL, *Judge.*

Warrant.

The President of the United States of America to the marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize, and into your possession take the steamer Lelia, her tackle, apparel, machinery, furniture, &c., described in the libel filed by the district attorney, now of record in this court, and now libelled by the United States for the causes set forth in the libel pending in the circuit court of the United States for the sixth judicial circuit and eastern dist. of Louisiana; that you do cite and admonish the owner or owners, and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear

7 before a circuit court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said property should not be condemned and sold agreeably to the prayer of the libellant, and how you have executed this warrant, that you make return according to law.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 20th day of June, A. D. 1865, and 89th year of the independence of the United States.

(Signed) F. B. VINOT, *D'y Cl'k.*

Marshal's return.

Received June 23d, 1865, and having seized and taken into my possession the within-named property on the authority of a

8 previous writ, I posted a copy of this warrant, the libel, and the order of the judge, on the door of the court house, and published the monition in the Picayune, a daily newspaper printed in New Orleans, on the 24th and 29th June, and 4th and 10th July, 1865.

Ret'd July 10th, 1865.

(Signed) A. BOUDOUIN, *D'p'y.*

Monition.

In the United States circuit court for the sixth circuit and eastern district of Louisiana.—No. 3,588.

UNITED STATES
vs.
STEAMER LELIA, her tackle, apparel, &c. } No. 3,588.

In obedience to an admiralty warrant to be directed in the above-entitled suit, I have seized and taken into my possession the steamer

Lelia, her tackle, apparel, etc., now libelled by the United States of America for the causes set forth in the libel now pending in the circuit court of the United States, and I do hereby cite and admonish the owner or owners thereof, and all and every person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear at circuit court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the date hereof, to show cause, if any they have or can, why the said steamboat, her tackle, apparel, etc., should not be condemned as forfeited to the United States, and be sold agreeably to the prayer of libellants, and the proceeds thereof be distributed according to law.

9

United States marshal's office, New Orleans, 23d day of June, 1865.

(Signed) CUTHBERT BULLITT,
United States Marshal.

10 *Claim of H. J. Phelps.—Filed July 3d, 1865.*

In the U. S. circuit court.

UNITED STATES
vs.
STEAMER LELIA.

And now comes Harlow J. Phelps, of the city of New Orleans and State of Louisiana, and claims as his own property said steamer Lelia, her tackle, apparel, etc., seized by the United States and libelled and propounded against as forfeited in and by the libel of information aforesaid, to wit, under the act of Congress, approved on the 16th August, 1861, entitled "An act to confiscate property used for insurrectionary purposes," and the said Phelps alleges that, at the time of the seizure aforesaid, he was, and yet is, the true lawful, and sole owner and proprietor bona fide of said steamer Lelia, her tackle, apparel, etc., and of this he is ready to make due proofs by his own oath and otherwise, as the court shall direct.

(Signed) C. ROSELIUS, *Proctor.*
(Signed) J. W. WHITE,
Agent, H. J. PHELPS.

Sworn to and subscribed before me this 3 day of July, 1865.
(Signed) F. B. VINOT, *D'y Cl'k.*

11 *Petition to bond and order thereon.—Filed July 3d, 1865.*

In the U. S. circuit court, 6th circuit and eastern dist. of Louisiana.

UNITED STATES
vs.
STEAMBOAT LELIA, her tackle, etc. } No. 3,588.

The petition of Harlow J. Phelps, residing in the city of New Orleans, respectfully represents, that he is the sole, legal, and bona fide owner and proprietor of the said steamboat Lelia, her tackle, apparel, etc., and has intervened, and made appearance, and claim herein accordingly; that said steamboat is now under seizure in the hands of the U. S. marshal by virtue of process issued in this cause; that he is desirous of having the same released upon giving bond and security according to law.

Wherefore he prays the court to order an appraisement of
12 said steamboat Lelia; that, upon said appraisement, said steamboat may be released from seizure and delivered to your petitioner upon his executing bond and security conditioned according to law, to the satisfaction of the court, and he prays for general relief, and he will ever pray, etc.

(Signed) C. ROSELIUS, *Proctor.*

Order.

Let the steamer Lelia, her tackle, etc., be appraised by Heartt & Swain, and let the petitioner, Harlow J. Phelps, be permitted to bond the same upon furnishing a stipulation in the sum exceeding by one-half the appraised value thereof, with good and solvent security, conditioned as the law directs, and upon payment and costs of appraisement.

July 3d, 1865.

(Signed) E. H. DURELL, *Judge.*

13 *Bond for costs.*

UNITED STATES OF AMERICA,
Eastern District of Louisiana, ss, to wit:

Personally appearing before me, the undersigned United States commissioner for the eastern district of Louisiana, aforesaid, J. W. White, agent of H. J. Phelps, as principal, and said J. W. White, as surety, do hereby acknowledge themselves jointly and severally to be indebted unto the United States in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattels, lands, and tenements, the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators firmly by these presents.

Whereas, in the matter of the United States *vs.* the steamer Lelia, tackle, etc., No. 3,588 of the docket of the circuit court of the United States for the eastern district of Louisiana, a libel of infor-

mation has been filed on behalf of the United States. This obligation to be null and void on condition that the said H. J. Phelps shall abide by the final decree rendered in the cause, and pay all such costs, expenses, and damages as shall be awarded by the court, upon the final decree, whether it is rendered in the original or appellate court; otherwise, this obligation to remain in full force and virtue.

(Signed) J. W. WHITE, [L. S.]
Ag't H. J. PHELPS. [L. S.]
J. W. WHITE. [L. S.]

Signed and sealed at the city of New Orleans, this 3d day of July, 1865, in presence of—

(Signed) CHS. CLAIBORNE,
U. S. Commissioner in and for the eastern dist. of Louisiana.

14 *Notice to appraisers.—Issued July 3d, 1865.*

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER LELIA, her tackle, etc. } No. 3,588.

To H. G. Heartt and Richard Swain:

Take notice that you have been this day appointed appraisers for the purpose of ascertaining the value of the property libelled in this case, and you are to file the report of your appraisement within the shortest possible delay.

By order of the court.

(Signed) F. B. VINOT, *D'y Cl'k.*

New Orleans, July 3d, 1865.

Marshal's return.

Received July 3d, 1865, and same day, month, and year served a copy of this notice on Heartt and Swain, in the hands of
15 Richard Swain, one of the appraisers named herein.

(Signed) A. BOUDOUIN, *Deputy.*

July 3d, 1865.

Appraiser's report.

UNITED STATES
vs.
STEAMER LELIA, tackle, etc. } No. 3,588.

To the honorable circuit court for the eastern district of La.:

We, the undersigned appraisers to this honorable court, duly appointed and sworn, have the honor to report:

That on the third day of July, 1865, we proceeded on board of the steamer Lelia for the purpose of ascertaining her value; and af-

ter a careful and thorough examination, find that she is about six years old; built in Cincinnati, 1859. She is 170$\frac{44}{95}$ tons burden.

And on a careful examination of the said boat, her boilers, engines, tackle, and apparel, we do hereby value and appraise
16 the said boat, her tackle, apparel, at the sum of seven thousand two hundred dollars, ($7,200,) cash, and no more.

Given under our hands this third day of July, 1865.

(Signed) H. G. HEARTT,
(Signed) RICHARD SWAIN.
U. S. Appraisers, New Orleans.

Appraiser's bill.—Filed July 3d, 1865.

UNITED STATES COMMISSIONER'S OFFICE,
Appraiser's Department, New Orleans, July 3d, 1865.

In the matter of steamer Lelia, tackle, etc., to appraiser's office, Dr.
To appraisement, examination, $7,200, @ 1 per cent., $72 00.
1865, July 3.

17 *Release bond.*

UNITED STATES OF AMERICA,
Eastern District of Louisiana:

Know all men by these presents, that we, J. W. White, agent of Harlow J. Phelps, of New Orleans, claimant, and owner of the steamer Lelia, tackle, etc., as principal, and J. S. Simonds, as sureties, are held and firmly bound unto the United States of America, libellant, in the sum of ten thousand eight hundred dollars, lawful money of the United States of America, for the payment whereof to the said United States we jointly and severally bind ourselves, our heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals, hereunto affixed by us at New Orleans, this 3d day of July, one thousand eight hundred and sixty-five.

Whereas, an admiralty warrant was lately issued out of the honorable the circuit court of the United States of America, for the eastern district of Louisiana, at the suit of United States *vs.* the steamer Lelia, her tackle, apparel, and furniture, and numbered 3,588 on the docket of the said court, commanding the marshal to seize and take into his possession the steamer Lelia, her tackle, etc., which has been seized accordingly, but has been released from said seizure and delivered to said J. W. White, agent of the claimant, and owner thereof, by reason of the signing, sealing, and delivery of these presents, said J. W. White, agent of claimant, having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court.

Now, the condition of the above obligation is such, that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree, rendered in the court to which the process is returnable

or in any appellate court, then the foregoing obligation is to be void; but otherwise shall remain in full force and virtue.

(Signed) J. W. WHITE. [L. S.]
(Signed) J. S. SIMONDS. [L. S.]

Signed, sealed, and delivered in the presence of—
CHAS. CLAIBORNE, *U. S. Comm'r.*

17½ J. S. Simonds, surety on the within bond, being duly sworn, says that he lives in the city of New Orleans, and is worth the sum of ten thousand eight hundred dollars ($10,800) over and above all his debts and liabilities.

(Signed) S. SIMONDS.

Sworn to and subscribed before me, this 3d of July, 1865.
(Signed) CHAS. CLAIBORNE, *U. S. Comm'r.*

18 *Writ of release.—Issued July 3d, 1865.*

United States circuit court eastern dist. of Louisiana.

CLERK'S OFFICE, *New Orleans, July 3d,* 1865.

UNITED STATES
vs.
THE STEAMER LELIA, &c. } No. 3,588.

The President of the United States of America to the marshal of the eastern district of Louisiana, or his lawful deputy, greeting:

Whereas J. W. White, agent of H. J. Phelps, claimant and owner of said steamer, hath this day filed a claim thereto on behalf of said claimant and owner, and obtained leave of court to bond the said steamer, and which said claim is now of record in this office—

You are hereby authorized to release said steamer from seizure, and her to restore to the possession and custody of said claimant on he having given bond conditioned as required by the order of
19 court, and otherwise complying with the rules of the court, &c., and make return hereon of your doings in the premises.

Witness the Hon. Salmon P. Chase, Chief Justice of the United States, New Orleans, this 3d day of July, A. D. 1865, and the 89 year of the independence of the United States.

(Signed) F. B. VINOT, *D'y Cl'k.*

Marshal's return.

Received, July 3d, 1865, and on the same day, month, and year, in obedience to this order, release the steamboat Lelia, her tackle, etc., unto J. W. White, agent for Harlow J. Phelps, claimant of said boat, and took from said White a receipt for said property, which is on file in the U. S. marshal's office.

New Orleans, July 3d, 1865.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

20 *Pro confesso.—From minutes of December 2d, 1865.*

NEW ORLEANS, *Saturday, December 2d*, 1865.

Court met pursuant to adjournment.
Present: Hon. Edw. H. Durell, district judge.

UNITED STATES
vs.
THE STEAMER LELIA, &c. } No. 3,588.

The delay allowed by law having expired, and no claims or defence having been filed, after due monition and proclamation, it is, on motion of the dist. att'y, ordered, that all persons interested in the property seized be pronounced in contumacy and default, and the libel adjudged and taken pro confesso.

Decree of condemnation.—From minutes of December 2d, 1865.

21 UNITED STATES
vs.
THE STEAMER LELIA, &c. } No. 3,588.

The monition issued in this case having been heretofore returned, the usual proclamation having been made, and the default of all persons duly entered, it is thereupon, on motion of the dist. att'y, ordered, adjudged, and decreed by the court now here, and his honor the judge, by virtue of the power and authority in him vested, doth hereby order, adjudge, and decree that the steamer Lelia, her tackle, apparel, and furniture, be, and the same is hereby, condemned as forfeited to the United States.

And it appearing that the libelled property has been bonded by the claimant in pursuance to the order of 3d July, 1865, that said property was appraised at seven thousand two hundred dollars, and was delivered to said claimant, who removed the same from the custody of the marshal and control of this court;

22 It is further adjudged and decreed that the said claimant, J. W. White, agent of Harlow J. Phelps, as principal, and J. S. Simonds, as surety on the bond, be condemned in solido to pay to the United States the sum of seven thousand two hundred dollars, the appraised value of said boat, with five per centum per annum interest from date till paid, and costs of suit.

Affidavit of agent of claimant.—Filed December 5th, 1865.

United States circuit court.

UNITED STATES
vs.
STEAMBOAT LELIA, her tackle, etc. } No. 3,588.

N. O'Donohul, being duly sworn, deposes and says, that his firm is the agent of the steamboat Lelia; that in July last the answer which is now presented to the court was placed into his hands by the proc-

tor of the claimants, to be sworn to and filed; that the same
23 was put aside by him, and until his attention was called to the fact of the same not having been filed, on the 4th Dec., 1865, he was under the impression that the same had been filed; that said oversight was unpremeditated and altogether accidental, and that the same oversight was committed in the matter of U. S. *vs.* steamboat Anna Perret.

(Signed) N. O. DONOHUL, *Agent.*

Sworn to and subscribed before me, this 5th day of December, 1865.

(Signed) F. B. VINOT, *D'y Cl'k.*

Decree of condemnation set aside.—From minutes of 5 December, 1865.

UNITED STATES
vs.
THE STEAMER LELIA, &c. } No. 3,588.

On motion of the district att'y, and on suggesting to the court that it has been proven to his satisfaction that the proctor for the
24 the complainant had drawn up the answer in this case, and had handed the same to his client for the purpose of swearing to and filing it in the clerk's office, but had forgotten so to do.

Ordered, that the decree of condemnation herein rendered on the 2d instant be set aside and annulled, and the claimant permitted to file said answer.

Answer.—Filed December 5th, 1865.

United States circuit court, 6th circuit and eastern district of Louisiana.

UNITED STATES
vs.
STEAMBOAT LELIA, her tackle and apparel. } No. 3,588.

And now comes Harlow J. Phelps, a loyal citizen of the United States, and for answer to the libel of information herein, says:

1st. To the 1 and 2 articles of said libel of information, he
25 says that he admits the seizure of said steamboat, etc., by virtue of process issued herein, and that said steamboat, etc., is proceeded against by virtue of the act of Congress of the 6th August, 1861, and the proclamations of the President of the 15th April and 16th Aug., 1861; but your respondent avers that said seizure and said proceedings are without justification in law, and in violation of his rights and ownership in and to said steamboat, etc.

2d. To the 4th article of said libel of information, and to the specifications 1, 2, 3, 4, and 5, and to the 5th article thereof, he says that said steamboat Lelia, her tackle, etc., was never used or employed knowingly by your respondent in aiding, abetting, or promoting the said insurrection and resistance to the laws within the meaning of

the said act of Congress, after the approval thereof, and after said public proclamations of the President, by being used in the
26 transportation of confederate troops, in insurrection against the government of the United States, and in transporting munitions of war and supplies for the said troops; nor was said steamboat, etc., used and employed by your respondent, the owner thereof, in aiding and abetting persons engaged in said insurrection and resistance to the laws within the meaning of the said act of Congress, after the approval of said act, and after said public proclamations of the President, by being used in the transportation of troops of the so-called Confederate States, and in the transportation of munitions of war and supplies for the use of said troops; nor was said steamboat, etc., acquired, sold, or given by your respondent, or by his agent or employee, with intent to use or employ the same for the purpose of aiding, abetting, and promoting said insurrection and resistance to the laws, after the approval of said act of Congress, and after the public proclamations aforesaid, for the purpose aforementioned; nor did your respondent knowingly consent to the use
27 or employment of the said property for the purpose of aiding, abetting, and promoting said insurrection and resistance to the laws, or aiding, abetting, and promoting persons engaged therein, after the approval of said act of Congress, and after the proclamations above mentioned, for the purposes aforesaid; nor did your respondent, or his agent or employee, suffer said steamboat, etc., to be used or employed in aiding, abetting, or promoting the insurrection proclaimed by the President, as aforesaid, and in aiding, abetting, or promoting a person or persons engaged in said insurrection, after the approval of said act of Congress above mentioned, and after said public proclamations, by permitting the use of said steamboat, etc., aforesaid; and your respondent says that said steamboat was lying in a district under rebel occupation, and if any illegal use was ever made of said steamboat, etc., the same was done by the application of illegal and irresistible physical force, against the consent, will, or approbation of your respondent, or his agents or employees;
28 that your respondent is and always has been a true and loyal citizen of the United States, and that by no act of his, or of his agents or employees, and by no uses to which said steamboat, etc., may have been devoted, ought said steamboat, etc., be confiscated and condemned to the use of the United States as enemy's property.

Wherefore your respondent respectfully prays that said libel may be dismissed with costs, and that steamboat Lelia, her tackle, apparel, etc., may be restored to him; and he prays for general relief, etc.

(Signed) C. ROSELIUS,
Proctor for Respondent.

(Signed) J. D. WILLBANKS, *Agent.*

Sworn to and subscribed before me, this 5th day of December, 1865.

(Signed) F. R. VINOT, *D'y Cl'k.*

Testimony for libellants.—Filed December 5th, 1865.

UNITED STATES
vs.
STEAMER LELIA.

29 R. Sanders, for United States, says: H. J. Phelps was an owner of the Lelia in '64; I saw H. J. Phelps in the Red river on the Anna Perret and the Lelia; the Lelia was in the confederate service a great deal, the most of the time of 1863 and '64, carrying quartermaster and commissary stores, etc; she run from Alexandria to Shrevesport; she was running on that river even when not in confederate employ; the majority of the time she was running in the Red river she was in the government employ.

Cross-exam.:

This boat was ordered into confederate service, seized once by the quartermaster department, appraised, and afterward restored to the owner; she was kept in confederate service some 6 weeks before she restored to the owner, and this was done against the consent of the was owners; I knew that Harlow J. Phelps objected very strongly
30 against these proceedings, and considered himself outraged; but we paid him for the damage he had sustained.

(Signed) R. W. SANDERS.

Sworn to and subscribed before me, this 5th day of December, 1865.

(Signed) CH'S CLAIBORNE,
U. S. Com'ner.

Notice to take testimony.—Issued December 22d, 1865.

United States circuit court, eastern dist. of La.

UNITED STATES
vs.
STEAMER LELIA. } No. 3,588.

To C. Roselius, esq.:

You are hereby notified that testimony will be taken in the above-entitled cause on Tuesday, the 26 day of December, 1865, at the clerk's office of this court, at 12 o'clock m., on behalf of libellant.

New Orleans, Dec. 22d, 1865.

(Signed) F. B. VINOT, *D'y Cl'k.*

31 *Marshal's return.*

Received December 23d, 1865, and on the same day, month, and year served a copy of the within notice on C. Roselius, esq., personally.

December 23d, 1865.

(Signed) J. F. PREIS,
D'y U. S. Marshal.

Testimony for libellants.—Filed December 26th, 1865.

UNITED STATES
vs.
STEAMER LELIA. } No. 3,588.

Th's L. Airey, sworn for United States, says: In the latter part of 1864 this boat was engaged in bringing down corn to me as Q. M., at Alexandria and Grand Ecore; this corn was used for confederate government purposes; don't know that she ever carried arms or troops; she had been engaged in so bringing down corn for a
32 couple of months or over; I don't know positively who was her owner; Phelps was reputed as her owner; a man named John White was her captain; don't know that Phelps ever commanded her, or acted as clerk.

Cross-exa.:

I was acting ass't Q. M. at Grand Ecore, where my depot was; my headquarters were at Natchitoches; my functions were to supply the western part of La. with corn brought down the river; the Lelia was sent down to me by Capt. McMaster, under military orders; she had been ordered to report to me by Capt. McMaster, and under these orders I sent her about wherever I wanted her, by virtue of my position of military officer.

I do not remember whether these orders were obeyed willingly or not.

(Signed) THOS. L. AIREY.

Sworn to and subscribed before me, this 2d December, 1865.
(Signed) CH'S CLAIBORNE,
U. S. Comm'er.

33 John C. Marsh, sworn for United States, says: The Lelia was in the Red river in '63 and '64; saw her there; never saw any ammunition of war on her, but saw her carry corn; have seen confederate troops on her; on one occasion I saw her take in corn above Shrevesport; this place is called Hurricane bluff; I saw her take in at Shrevesport; the troops she carried below Shrevesport to Alexandria; I think she was running between Alexandria and Shrevesport; during the time she was in confederate service she carried private freight and passengers.

Mr. Roberts was her captain; saw Jas. Phelps on board, as well as Harlow J. Phelps, during this time of confederate service.

Cross-ex.:

I have never seen any document to show that this corn carried by the Lelia was confederate corn; I cannot positively state that this corn was confederate property; I cannot say whether the Lelia
34 rendered her services voluntarily or by force.

In speaking about an order, I heard Phelps say that he disliked much to obey the order, and would disobey if he could help it.

Re-direct:

The corn discharged by the Lelia was hauled away and taken by confederate soldiers.

(Signed) JNO. C. MARSH.

Sworn to and subscribed before me, this 26 December, 1865.

(Signed) CHS. CLAIBORNE,
U. S. Com'ner.

Notice to take testimony.—Issued January 12th, 1866.

United States circuit court, eastern dist. of Louisiana.

UNITED STATES
vs.
THE STEAMER LELIA. } No. 3,588.

To C. Roselius, esq.:

35 You are hereby notified that testimony will be taken in the above-entitled cause on Tuesday, the 16th day of January, 1866, at the clerk's office of this court, at 9 o'clock a. m., on behalf of libellant.

(Signed) F. B. VINOT, *D'y Cl'k.*

New Orleans, January 12th, 1866.

Marshal's return.

Received January 12th, 1866, and same day, month, and year served a copy of the within notice on C. Roselius, esq., by leaving it at his office in the hands of C. Roselius, esq.

(Signed) M. EGAN,
D'y U. S. Marshal.

New Orleans, January 15th, 1866.

Notice to take testimony.—Issued January 16th, 1866.

United States circuit court, eastern dist. of Louisiana.

UNITED STATES
vs.
THE STEAMER LELIA. } No. 3,588.

36 To C. Roselius, esq.:

You are hereby notified that testimony will be taken in the above-entitled cause on Thursday, the 18th day of January, 1866, at the clerk's office of this court, at 5½ o'clock p. m., on behalf of libellant.

(Signed) F. B. VINOT, *D'y Cl'k.*

New Orleans, January 16th, 1866.

Marshal's return.

Received January 16th, 1866, and on the 17th day of same month and year served a copy of the within notice to C. Roselius, esq., personally at his office on Custom-house street in this city.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

New Orleans, January 17th, '66.

Testimony for libellants.—Filed January 18th, 1866.

UNITED STATES *vs.* STEAMER LELIA. } No. 3,588.

37 T. C. Twichell, sworn for the United States, says: I never saw this boat in all my life; know nothing whatever about her. I know Harlow J. Phelps; became acquainted with him since my return to this city, about 6 months ago. Know nothing about his past career; don't know his political sentiments. I know James Phelps; know nothing about James Phelps' political sentiments.

(Signed) T. C. TWICHELL.

Sworn to and subscribed before me, this 18 January, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Com'ner.

Wm. Stephens, sworn for the United States, says: I have resided at different places in the conf. lines for the last 3 or 4 years; have resided in Red river a portion of the time; saw the steamer Lelia frequently; she ran between Shrevesport and the other points in '63 and '64; have no idea what she was carrying at the time; I may
38 have been on board, but don't recollect; don't recollect having seen confederate troops on the Lelia; don't recollect at all what she carried, neither that she carried a flag. I know Harlow J. Phelps; don't recollect that I saw him on board the Lelia; was not intimate with him; never had any conversation with Mr. Phelps with regard to his political sentiments; can't say what they were.

Cross-exam.:

Being asked to state all he knew that would be of advantage to the owner of the Lelia.

(District att'y objects to the question.)

Understanding the question to be with a view of ascertaining whether the Lelia did voluntary service, I answer that if the Lelia had refused to perform the services required she would have been compelled by force. I heard a great many persons say on Red
39 river that Phelps was a Union man; it was a common report.

Re-direct:

I knew only the fact at large that the Lelia had been in conf. service.

(Claimants objects to this answer as too general, and hearsay.)

(Signed) W. STEVEN.

Sworn to and subscribed before me this 18th January, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Com'ner.

Notice to take testimony.—Issued January 23d, 1866.

United States circuit court, eastern dist. of Louisiana.

UNITED STATES
vs.
STEAMER LELIA. } No. 3,588.

To C. Roselius, esq.:

You are hereby notified that testimony will be taken in the above-entitled cause on Thursday, the 25 day of January, 1866, at
40 the clerk's office of this court, at 5½ o'clock p. m., on behalf of libellant.

(Signed) F. B. VINOT, *D'y Cl'k.*

New Orleans, January 23d, 1866.

Marshal's return.

Received January 23d, 1866, and on the 24 day of same month and year served a copy of the within notice on C. Roselius, esqr., at his office, in the hands of A. Phillips, esqr.

(Signed) M. EGAN,
D'y U. S. Marshal.

January 24th, 1866.

Testimony for claimant.—Filed January 26th, 1866.

UNITED STATES
vs.
STEAMER LELIA. } No. 3,588.

It is agreed that the testimony of G. W. Tyson, on file in the case of the Anna Perret, be considered as his evidence in this case.

41 Witness further says that the Lelia was taken possession of by the government of the confederate to transport supplies: can't say positively, but think this was done against Mr. Phelps' consent. Mr. Phelps was not left in command of his boat. When the confederate took her they put their own commander on board.

Cross-ex.:

Think Mr. Phelps had an interest in the Perret, Lelia, and Vigo at that time. Don't know that Phelps was in command of the Lelia

when the confederate took her. The want of pay by the confederate was one of Mr. Phelps' objections to the taking of the boat. The other objections I don't know.

(Signed) G. W. TYSON.

Sworn to and subscribed before me, this 26 January, 1866.

(Signed) CHS. CLAIBORNE,
U. S. Comm'er.

J'ph Morgan, sworn for claimant, says: I knew the Lelia on Red river; know that the confederate took her; don't know how
42 long they kept her, but it was near to the surrender that she was kept by them—over 4 months, I think. Don't know that she was taken against Mr. Phelps' consent. Other officers were put on board by the confederates.

Cross-exa.:

Don't know for what reasons other men were put on board. The principal officers placed on board by the confederate were detailed from the army. I think that Capt. Tom Roberts was in command when the confederate took the boat.

(Signed) JOSEPH MORGAN.

Sworn to and subscribed before me, this 26 January, 1866.

(Signed) CHS. CLAIBORNE,
U. S. Comm'er.

Testimony of Tyson in case of steamer Anna Perret.—Filed January 26th, 1866.

UNITED STATES
vs.
ANNA PERRET. } No. 3,596.

G. W. Tyson, sworn for claimant, says: I know Mr. Phelps;
43 knew him in Red river; he was supposed to be rather disloyal to the conf. government. I know that the boat was taken by the conf., with her cargo, at Natchitoches. The cargo was distributed among the authorities of the various departments. I was on board this boat when she was taken by the confederates. There was a great deal of excitement against Phelps at that time; the soldiers wanted to burn his boat. Both soldiers and citizens were indignant against him. Heard of no violence used against him, but I heard harsh language used against him.

Cross-exa.:

This was in Feb. or March, 1865. This outcry against Phelps was for carrying cotton down and bringing goods up. I suppose the confederate pickets would not allow a boat to pass without a permit, but it was an easy matter to run the blockade at that time. The boat had to pass by Alexandria to come down the river. Alexan-
44 dria was then a military post, but don't know that cannons had

been planted there at that time. I have been at Alexandria. I would not suppose that a boat would run the blockade if she intended to return with goods. Don't know what was the cause of Phelps' arrest; suppose it was for disloyalty.

Testimony of J. Morgan in the case of steamer Anna Perret.—Filed 26th January, 1866.

UNITED STATES
vs.
STEAMER ANNA PERRET. } No. 3,596.

J. Morgan, sworn for claimant, says: I was the pilot of the Anna Perret for 9 months in all, but running her only 4 or 5 months. I know that this boat was seized at Natchitoches. I left the place before she was released, and I think she too left before she was released; she run away, but was caught. I suppose I myself left in a right smart hurry; they wanted to arrest me too for having brought
45 the boat down the mouth of the river. I had been trading a little myself. Don't know what became of the cargo after it had been seized. I know one thing, that I did not get my goods back. Mr. Phelps was arrested on that occasion, and had been in charge of the boat and cargo. Don't know how long he remained under arrest. The general opinion up there was against Mr. Phelps; he was considered a Yankee and disloyal to the confederacy.

Cross-exam.:

I don't know for what cause Phelps was arrested. I did not remain long enough there; it was too hot for me. I was the pilot of the Anna Perret when she came down to the mouth of Red river and back. We had taken this cotton in at different places along the river. We got a part of the cotton from the plantation of George Robertson above Alexandria and Natchitoches. We stopped at Alexan-
46 dria. This was a military post at the time. A federal gunboat lay off the mouth of Red river when we got there. We had communication with that gunboat. Raised a flag of truce and communicated with her under it. Don't know who raised that flag of truce. There was a confederate officer on board at that time. The yawl from the gunboat came along side the Perret and an officer came on board. Don't know what for he came on board.

(Signed) JOSEPH MORGAN.

Sworn to and subscribed before me, this 26 January, 1866.

(Signed) CHS. CLAIBORNE,
U. S. Comm'er.

It is agreed that the testimony of Mr. Morgan, with regard to the reputation of Mr. Phelps about his disloyalty to the government of the confederates in this case, be also used as evidence in the case of the Lelia.

47 *Decree of condemnation.—From minutes, May 17th, 1866.*

UNITED STATES
vs.
THE STEAMER LELIA. } No. 3,588.

This cause came up for trial. Dist. att'y for the United States, C. Roselius, esq., proctor for defendant, not present, when, after hearing pleadings and evidence, it is ordered, adjudged, and decreed that the steamer Lelia, her tackle, apparel, and furniture be, and the same are hereby, condemned as forfeited to the United States.

And it appearing that the libelled property has been bonded by the claimant in pursuance to the order of 3 July, 1865, that said property was appraised at seven thousand two hundred dollars, and was delivered to said claimant, who removed the same from the custody of the marshal and control of this court:

It is further ordered and decreed that the said claimant, J.
48 W. White, agent of Harlow J. Phelps, as principal, and J. S. Simonds as surety on the bond, be condemned in solido to pay to the United States the sum of seven thousand two hundred dollars, the appraised value of said steamer, with five per centum per annum interest from date till paid, and costs of suit.

Order reopening judgment and fixing hearing of cause.—From minutes, May 19th, 186.

UNITED STATES
vs.
STEAMER LELIA. } No. 3,588.

On motion of C. Roselius, esq., attorney for defendant, and for reasons assigned, it is ordered by the court that the judgment herein rendered on 17th instant be reopened, and that this cause be assigned for hearing on Friday, 25th inst., at 11 a. m.

Notice to take testimony.

49 United States circuit court, eastern dist. of Louisiana.

UNITED STATES
vs.
STEAMER LELIA. } No. 3,588.

To John K. Goodloe, esq., dist. attorney:

You are hereby notified that testimony will be taken in the above-entitled cause on 24th May, 1866, at the clerk's office of this court, at 10 o'clock a. m., on behalf of claimants.

New Orleans, May 23d, 1866.

(Signed) F. B. VINOT, *D'y Cl'k.*

Marshal's return.

Received May 23d, 1866, and same day, month, and year served a copy of the within notice on Jno. K. Goodloe, esq., U. S. att'y, by leaving said document in hands of Jno. Fahey, esq., clerk of said district att'y, in his office, Custom-house building, in this city.

New Orleans, May 24th, 1866.

(Signed) J. J. PREIS,
D'y U. S. Marshal.

50 *Testimony for claimant.—Filed May 24th, 1866.*

UNITED STATES
vs.
STEAMER LELIA. } No. 3,588.

Testimony on behalf of claimant, taken May 24th, 1866, before C. Claiborne, U. S. comm'r, in presence of counsel of both parties.

Capt. James McClosky, sworn for claimant, says:

I was an officer in charge of the Red river transportation from '63 to '65, for the confederate government; it is to say, the whole of '64 and a part of '63 and part of '65. I don't think that I employed her, except that I once seized her under orders from General Dick Taylor, and kept her some 3 or 4 months; discharged her crew, and placed a confederate government crew on her; the whole crew—capt. and all—were discharged, and I put a new capt. there, who selected his crew. All these acts were done under military orders. I went
51 in person to the captain of the boat; I showed him my orders, and, with a great deal of reluctance, he left the boat. Capt. Roberts was the capt. There was no means to which the captain or owners of the boat could have resisted to prevent the seizure of her. The whole county was subject to military orders at that time.

I dont think I ever employed her in Gen'l Taylor's dep't; I don't remember if I did.

Cross-exa.:

I think the seizure of the steamer Lelia was made by me late in the fall of 1863. After her restoration, she went back to the possession of her owners. I seized her for the purpose of doing work for the government, as she was considered the best low-water business boat on Red river. She had been running one trip for the owners previous to my seizing her. I understood the house of Phelps & Co. had an interest in her; Capt. Roberts was also interested in her. She was at Alexandria, above the falls, when I seized her. I don't remember having seen her running in Red river
52 after she was restored to her owners.

There was an arrangement made about paying her, between Col. Barnun and the owners, at the time they returned her.

(Signed) JAS. McCLOSKEY.

Sworn to and subscribed before me, this 24th May, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Comm'r.

James N. Sherry, sworn for claimant, says:

I was assigned to duty in Capt. McCloskey's office at Alexandria, as an assistant clerk. The steamer Lelia was seized in the fall of 1863. I know that the captain and crew were discharged, and a new crew hired by Capt. McCloskey and put on the boat. The Lelia was not employed in conf. service, to the best of my knowledge, but during the time she was seized.

Cross-exa.:

I don't know whether the Lelia ran on the Red river, either before or after her seizure. I think the Lelia was restored some
53 months after the battle of Mansfield, which occurred in April. I left Alexandria, I think, in the latter part of September,
1864. She had been restored previous to my leaving.

(Signed) J. N. SHERRY.

Sworn to and subscribed before me, this 24th May, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Comm'r.

Order continuance.—From minutes, May 25th, 1866.

UNITED STATES
vs.
STEAMER LELIA. } No. 3,588.

By consent of counsel, this case is continued until Tuesday next, 29th inst., at 11 a. m.

Hearing and submission.—From minutes, May 29th, 1866.

UNITED STATES
54 *vs.*
STEAMER LELIA. } No. 3,588.

This cause came up for trial; district attorney for the United States C. Roselius, esq., for defendant.

When, after hearing the pleadings, evidence, and argument, the court took time to advise.

Final judgment.

Circuit court of the United States, sixth circuit, and eastern dist. of La., April term, 1866.

NEW ORLEANS, *Saturday, June 30th*, 1866.

Court met pursuant to adjournment. Present: the Hon. E. H. Durell, dist. judge.

UNITED STATES
vs.
THE STEAMER LELIA. } No. 3,588.

For reasons orally assigned by the court in the case of the United States versus the steamer Frolic, No. 3,595 of the docket, it is ordered,

adjudged, and decreed that the libel be dismissed, and that the
55 property seized be restored to the claimant upon the payment of all costs and a fee of $400 to the district attorney.

Judgment rendered June 30th, 1866.

Judgment signed June 30th, 1866.

(Signed) E. H. DURELL, *Judge.*

Petition of appeal and order.—Filed July 6th, 1866.

U. S. circuit court.

UNITED STATES *vs.* STEAMER LELIA. } No. 3,588.

To the hon. the judges of the circuit court of the United States for the sixth circuit and eastern dist. of La.:

The petition of Jno. K. Goodloe, United States attorney, in the name and behalf of the United States of America, libellants, herein respectfully represents, that a final sentence and decree was entered on the 30th day of June, 1866, in the above-entitled cause, in the said
56 circuit court, in and by which said decree it was ordered, adjudged, and decreed that the libel herein be dismissed and the property restored to claimants; that said final sentence and decree is adverse to libellants, and to their manifest injury and prejudice; that the matter in controversy exceeds in value the sum of two thousand dollars; that your petitioner, in behalf as aforesaid, feels aggrieved by the rendition of said decree, and is advised that the same is erroneous and ought to be reversed.

Therefore, your petitioner, in behalf as aforesaid, doth hereby appeal from said final sentence and decree to the next Supreme Court of the United States, returnable on the first Monday of next December, and prays that honorable court to grant him a suspensive appeal from said decree, the same to operate as a supersedeas, and that said final decree may be reversed, and such other decree thereupon made as to the said Supreme Court shall seem just, and that a transcript of the record and proceedings in this cause, duly authenticated,
57 may be sent up to the said Supreme Court without delay.

(Signed) C. S. KELLOGG,
Ass't U. S. Attorney.

Order.

An appeal, to operate as a supersedeas, is allowed in this case, as prayed for, returnable to the Supreme Court of the United States the first Monday of December next, the appellants being by law dispensed from giving bond and security in judicial proceedings.

July 6th, 1866.

(Signed) E. H. DURELL, *Judge.*

58 UNITED STATES OF AMERICA,
Circuit Court of the United States,
Sixth Circuit and Eastern District of Louisiana:

CLERK'S OFFICE.

I, Charles Claiborne, clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, do hereby certify that the foregoing 57 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of the United States *vs.* the steamer Lelia, her tackle, apparel, &c., No. 3,588, of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 18th day of August, A. D. 1866.

[SEAL.] CH'S CLAIBORNE, *Clerk.*

[5-ct. stamp, cancelled.]

I, E. H. Durell, United States judge for the eastern district of Louisiana, do hereby certify that Charles Claiborne, whose name is signed to the above certificate as clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court. That said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 18th day of August, A. D. 1866

E. H. DURELL, *Judge.*

[5-ct. stamp, cancelled.]

59 THE UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to Harlow J. Phelps, claimant and defendant, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington on the first Monday of December next, pursuant to a petition and order of appeal filed in the clerk's office of the circuit court of the United States for the 6th circuit and eastern district of Louisiana, to answer the appeal taken by the United States of America in this cause, and that you show cause, if any there be, why the judgment rendered against the said United States, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 7th day of July, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

60 *Marshal's return.*

Received July 12th, 1866, and on the same day, month, and year served a copy of the within citation on Harlow J. Phelps, claimant, of str. Lelia, and defendant in the above-entitled suit, by giving said copy into the hands of C. Roselius, esq., at his office in this city, he being attorney for said Phelps, who was not in this city.

M. EGAN, *D'y U. S. Marshal.*

New Orleans, July 13th, 1866.

Filed 18th October, 1866.

In the Supreme Court of the United States.

DECEMBER TERM, 1868.

UNITED STATES, appellants,
vs.
THE STEAMER COUNTESS. } No. 27.

Appeal from the Circuit Court of the United States for the eastern district of Louisiana.

STATEMENT FOR THE UNITED STATES.

This case is of the same character as the two preceding on the docket.

The steamer is claimed by J. J. Poindexter, of New Orleans, who in his answer alleges that he purchased the same in January, 1866, from Wm. C. Harrison. (Record, p. 13.) In regard to her proprietorship, one deponent says she was owned by Poindexter in November, 1863, (Record, p. 16;) another that she was owned by Harrison in the latter part of 1861, and also in January, 1863, (Record, p. 19, 20;) and at different times during the years 1863, 1864, and 1865, she appears to have been under the command of the one or the other of these persons.

1. A case of forfeiture, under the act of 1861, is clearly made out from the proofs. Stevens, in his testimony, states that the steamer occasionally ran as

a confederate transport, on Red river, in the years 1863, 1864, and 1865, (Record, p. 14.) Mason also says that she was running on Red river in those years, and that he saw her several times in the employ of the confederate government carrying army supplies, one of which occasions was in May, 1864, directly after General Banks left Alexandria. (Record, p. 17.) Hite swears that he was in command of her from January until May or June, 1863, during which time she was employed by the rebel government; he also says that *part* of this time she was in the rebel service against the consent of her owner, from which the inference necessarily arises, that for the remainder of the time she was in that service with the owner's consent.

2. But the claimant, apparently conscious of his utter inability to establish (as he certainly fails to do) a defence on the ground that the employment of his boat in the rebel service was compulsory, sets up in his answer that before the institution of proceedings of condemnation against the steamer, both himself and the former owner, Harrison, had availed themselves of the pardon and amnesty of the President under the proclamation of May 29, 1865. (Record, p. 13). Proof is accordingly offered that the one took the oath prescribed by that proclamation in June, and the other in July, 1865; but *non constat* that they were not, at the time, included in some one or more of the classes of persons designated in that proclamation as excepted from the benefits thereof.

With reference to this point, it is submitted, that if a pardon were pleadable under the ruling of this court in the case of *Armstrong's Foundry*, 6 Wallace, 766, the clainamt has not shown that either he or the former owner was entitled to the benefits of the proclamation referred to; since to do this he should not only prove compliance on their part with all the requirements of that proclamation as respects taking

the oath, etc., but likewise that they were not within any of the excepted classes mentioned therein.

WM. M. EVARTS,
Attorney General.
J. HUBLEY ASHTON,
Ass't Attorney General.

O

Supreme Court of the United States.

No. 27.

THE UNITED STATES, APPELLANTS,

vs.

THE STEAMBOAT COUNTESS.

BRIEF OF COUNSEL OF APPELLEE.

The steamboat Countess was libelled for confiscation, in the circuit court of the United States for Lousiana, under the act of August 6, 1861, (12 Stats. at Large, p. 319,) on the 2d February, 1866. (See print. Rec., p. 1.)

It will be found that no portion of the evidence in the cause bears upon any of the allegations of the libel, save those of the 4th article; and the only question to be solved in the case is substantially "whether the employment made of the steamboat Countess by the military agents of the rebel government was with the consent of the owners or of their authorized agents?" (Libel, print. Trans., p. 2.)

To the allegations of such consent, the claimant and owner of the boat, I. I. Poindexter, said, "that the said boat never was used with the free will and consent of the owner thereof to aid the said Confederate States." (See print. Trans., p. 13.)

The following aré the facts proved in the case:

1. The Countess was a steamboat in the Red River trade, running between New Orleans and Jefferson, Texas, for which place she had left on the 20th April, 1862.

[New Orleans having been occupied by the United States forces on the 1st May, 1862, the rebels forbade all intercourse with the city, and, of course, the Countess could not come back.]

George D. Hite, who had been agent of the boat in New Orleans previous to 24th April, 1862, took command of her, as master, in January, 1863, and ran her on the Washita river to Camden, Arkansas, leaving her in June, 1863. During this, and after, she was transporting war material for the rebel government, which "was carried under orders. *The owners had no choice.* These orders were issued by the officers of the Confederate Government, who had a sufficient military force on the Red and Washita rivers to enforce their orders. Had the captain refused to obey the orders, the boat would have been taken possession of by the government, the captain taken away, conscripted, and put in the conscription camp."

Hite, the master, made objection to the rebel quartermaster in Shreveport, "who threatened to put him in jail if he did not obey his orders." (See the test. of George D. Hite, a witness of the United States, print. Rec., pp. 19 and 20.)

2. William Stevens, a witness for the United States, says, that he saw the Countess, at different times, on Red river, in 1863 and 1864, when "she was occasionally a confederate transport; he is satisfied, from his knowledge, about the Countess, that her owners would not have carried confederate freight had they not been forced to do so." (See test. of William Stevens, print. Trans., p. 14.)

3. On one occasion, the boat is seen in charge of rebel soldiers. (See test. of J. C. Marsh, a witness for the United States, print. Trans., p. 15.)

4. Mason says, "the Countess was employed by the Confederate Government, carrying supplies; she was ordered to do so by the confederate officers, and had no option; she had to obey." (Testimony of A. H. Mason, a witness for the United States, print. Trans., p. 17.)

5. In October, 1863, Poindexter, as master and owner of the boat, was applied to, to take a load of cotton to New Orleans, under permit from the rebel General K. Smith. In

the conference on the subject, "Poindexter said he was not particular about the quantity of freight he had, as his only object was to get his boat out of the confederacy; and that he would take any pay the owner of the cotton chose to give." (*See* test. of Henry Perkins, print. Trans., p. 17.)

6. Similar declarations were made by Poindexter confidentially to others; he advised Sullivan, in November, 1863, "not to stay in the confederacy; and added, 'that he was coming as soon as he could get his boat below the falls;'" but feared to pass the rebel fort De Russey. This was in accordance with the loyal sentiments Poindexter had expressed in his family in 1861. (*See* test. of R. H. Sullivan, print. Trans., pp. 15 and 16.)

These facts show, on the part of I. I. Poindexter, the present claimant, a man of undoubted loyalty to the Government, and in favor of whom there exists every presumption that such sentiments continued, had there even been no further proof; but the whole proof in the case shows him at all times faithful to the United States.

There is not a particle of proof in the record that any owner of the Countess or any agent of theirs, with or without their knowledge, ever consented to the employment of the boat in the rebel service.

The testimony leaves the case without doubt, and fully sustains the decree of the lower court dismissing the libel, and ordering the restoration of the boat.

Both Harrison, the former owner, and Poindexter, the present owner and claimant, availed themselves of the proclamation of amnesty and pardon, issued by the President of the United States, on the 29th of May, 1865, as will be seen by reference to the oath duly taken by each of them, before the clerk of the circuit court of the United States, in November. (*See* print. Trans., p. 21.)

If they ever committed the offence charged upon them in the libel, of which, however, there is no proof, this acknowledgment of error and full pardon has completely blotted out the crime and all its consequences, and implies a restoration of all prop-

erty not actually condemned at the date of their acceptance of the grace extended to them.

Ex parte Garland, 4 Wallace, pp. 380–81.
Armstrong's Foundry, 6 Wallace, p. 769.

In this case, the amnesty and pardon took effect before the property was libelled. Harrison took the prescribed oath on 13th June, 1865, and Poindexter on the 14th July, 1865. (*See* print. Trans., p. 21.) The libel of information was not filed until 3d February, 1866, more than six months after. (*See* print. Trans., p. 1.)

The decree of the lower court should be affirmed.

Respectfully submitted,

THOMAS J. DURANT,
Of Counsel for Appellees.

DECEMBER 4, 1868.

SUPREME COURT OF THE UNITED STATES.

No. 296.

THE UNITED STATES, APPELLANTS,

vs.

THE STEAMER COUNTESS, HER TACKLE, APPAREL, &c.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 *Libel of information.—Filed Feb'y 2d, 1866.*

To the honorable the judges of the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana.

The libel of information of John K. Goodloe, attorney of the United States for the eastern district of Louisiana, who prosecutes for the said United States in this behalf, and being here present in court, in his own proper person, in the name and behalf of the said United States of America, and Charles Black, sr., informant, against the steamer Countess, her tackle, apparel, furniture, machinery, &c., hereinafter described, and against all persons intervening for their interest therein, in a case of seizure and forfeiture, alleges, propounds, and declares as follows:

I. That Cuthbert Bullitt, esq., marshal of the United States for the said district, under written authority given him by the said attorney, in compliance with instructions issued by the Attorney General of the United States to the district attorneys thereof, and by virtue of the act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate property used for insurrectionary purposes," heretofore, that is to say, on the 2d day of February, in the year one thousand eight hundred and sixty-six, seized as forfeited to the United States, at New Orleans, within said district, and within the jurisdiction of this court, this steamer Countess, her tackle, apparel, furniture, machinery, &c.

2 II. That by the act of the Congress of the United States, approved August 6, 1861, entitled "An act to confiscate property used for insurrectionary purposes," it was provided, "that if, during the present or any future insurrection against the government of the United States, after the President of the United States shall have declared, by proclamation, that the laws of the United States are opposed, and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceeedings, or by the power vested in the marshals by law, any person or persons, his, her, or their agent, attorney, or employee, shall purchase or acquire, sell or give, any property of whatever kind or description, with intent to employ the same, or suffer the same to be used or employed, in aiding, abetting, or promoting such rebellion or resistance to the laws, or any person or persons engaged therein; or if any person or persons, being the owner or owners of any such property, shall knowingly use or employ, or consent to the use or employment of the same as aforesaid, all such property is hereby declared to be lawful subject of prize and capture wherever found; and it shall be the duty of the President of the United States to cause the same to be seized, confiscated, and condemned."

III. That the President of the United States did, on the 15th of April, 1861, declare by proclamation, "that the laws of the United States are opposed and the execution thereof obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the power vested in the marshals by law;"

and that on the 16th of August, 1861, he did reiterate said proclamation, and did declare that "such insurrection" still existed and had not been suppressed.

IV. 1. That the property herein above described was used and employed knowingly by the owner or owners thereof, in aiding, abetting, and promoting the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of the said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used in the transportation of troops of the so-called Confederate States in armed rebellion against the United States; and in the transportation of munitions of war and supplies for the use of the said troops.

2. That the property herein described was used and employed knowingly by the owner or owners thereof, in aiding and abetting persons engaged in the said insurrection and resistance to the laws, within the meaning of the said act of Congress, after the approval of said act, and after the public proclamations of the President above mentioned, and after the 16th day of August, 1861, by being used in the transportation of troops of the so-called Confederate States in armed rebellion against the United States; and in transporting munitions of war and supplies for the use of the said troops.

3. That the said property was purchased and acquired, and sold and given, by the owner or owners thereof, or by his, her, or their agent or employee, with intent to use or employ the same for the purpose of aiding, abetting and promoting the said insurrection and resistance to the laws, after the approval of said act, and after the public proclamations above mentioned, and after the 16th day of August, 1861, by being used in transporting troops of the so-called Confederate States in armed rebellion against the United States, and in transporting munitions of war and supplies for the said troops.

4. That the owner or owners of the said property did knowingly consent to the use or employment of it for the purpose of aiding or abetting or promoting said insurrection and resistance to the laws, or of aiding, abetting, and promoting persons engaged therein, after the approval of said act, and after the proclamations above mentioned, and after the 16th day of August, 1861, by permitting the use as aforesaid.

5. That the owner or owners of said property, his, her, or their agent or employee, did suffer said property to be used or employed in aiding, abetting, and promoting the insurrection proclaimed by the President as aforesaid, and in aiding, abetting, and promoting a person or persons engaged in said insurrection, after the approval of act above mentioned, and after the proclamation of the President, duly made public on the 16th day of August, 1861, by consenting to the use of the property for the purposes above stated.

V. That by reason of the premises, the property herein described became and was forfeited to the United States, and ought to be confiscated and condemned to the use of the said United States.

Wherefore, the said attorney, in the name and behalf of the Uni-

ted States of America, prays that process of monition may issue against the said property and the owner or owners thereof, and against all persons interested or claiming an interest therein, warning them,
at some early day to be named therein, to appear and answer
3 this libel of information; and that an order of publication may
be made in the usual form; and that, all due proceedings being had, this honorable court may be pleased to decree for the condemnation and forfeiture of the said property to the use and ownership of the said United States, and of Charles Black, sr., informant, and he prays for such further relief as the court is competent to give in the premises.

(Signed) JNO. K. GOODLOE,
United States Att'y for the East. Dist. of La.

4 *Order of publication.*

United States circuit court for the sixth judicial circuit and eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER COUNTESS, her tackle, apparel, and furniture. } No. 3,754.

Whereas, the steamer Countess, her tackle, apparel, and furniture, machinery, &c., described in the libel filed by the dist. attorney; and of record in this court, and all the right, title, and interest therein, has been seized by the marshal of the United States for the eastern district of Louisiana, by virtue of an act of Congress, approved on the sixth day of August, in the year of our Lord one thousand eight hundred and sixty-one, entitled "An act to confiscate
property used for insurrectionary purposes," and whereas the
5 United States attorney for the eastern district of Louisiana did, on the 2d day of February, A. D. 1866, file a libel of information in this court, praying the condemnation of said property under the act aforesaid, and that process of monition issue against the owner and owners of said property, and all persons interested or claiming and interest therein, warning them at some early day to appear and answer said information.

It is, therefore, on this 3d February, in the year of our Lord eighteen hundred and sixty-six, ordered that notice be given to the owner and owners of said property, and all persons interested or claiming an interest therein, to appear and answer this information on the 26th day of February, 1866, and show cause, if any they have, why said property, and the right, title, and interest therein,
should not be condemned and sold according to law, and that
6 notice be given by posting a copy of this order upon the front door of the court house of the district, and by publication in the Picayune newspaper twice a week previous to said 26th day of February, A. D. 1866, the first publication to be on or before the 12th instant.

New Orleans, February 3d, 1866.

(Signed) E. H. DURELL, *Judge.*

Warrant.

The President of the United States of America to the marshal of the eastern district of Louisiana, or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize, and into your possession take, the steamer Countess, her tackle, apparel, furniture, machinery, &c., as described in the libel filed by the dist. att'y, now of record in this court and now libelled by the United
7 States for the causes set forth in the libel pending in the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana: That you do cite and admonish the owner and owners, and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a circuit court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said property should not be condemned and sold agreeably to the prayer of the libellant; and how you have executed this warrant, that you make return according to law.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 3d day of February, A.D. 1866, and 90th year of the independence of the United States of America.

(Signed) CHAS. CLAIBORNE,
By F. B. VINOT, *D'y Clerk.*

7 *Marshal's return.*

Received February 3d, 1866, and having, on the second day of this same month and year, on the authority of an order of seizure from the U. S. dist. attorney, seized and taken into my possession the steamboat Countess, her tackle, apparel, and furniture, I posted a copy of this warrant, the libel, the order of the judge on the door of the court house, on the 5th instant, and published monition in the Picayune, a daily paper printed and published in this city, on the 7th, 13th, 20th, and 24th February, 1866.

N. O., Feb 26th, 1866.

(Signed) J. J. PRIES,
D'y U. S. Marshal.

8 *Monition.*

In the United States circuit court for the sixth circuit and eastern district of Louisiana, No. 3,754,

UNITED STATES *vs.* STEAMBOAT COUNTESS, her tackle, apparel, and furniture, etc.	No. 3,754.

In obedience to an admiralty warrant to me directed, in the above-entitled suit, I have seized and taken into my possession the steamboat Countess, her tackle, apparel, furniture, and machinery, etc.,

now libelled by the United States of America, for the causes set forth in the libel now pending in the circuit court of the United State for the above-named circuit and district, and I do hereby cite and admonish the owner or owners thereof, and all and every person or persons
9 having or pretending to have any right, title, or interest in or to the same, to be and appear at a circuit court of the United States for the district aforesaid, to be holden at the city of New Orleans on or before the third Monday from the date hereof, to show cause, if any they have or can, why the said steamboat Countess, her tackle, etc., should not be condemned and be sold agreeably to the prayer of libellants, and the proceeds thereof be distributed according to law.

United States marshal's office, New Orleans, 6th day of February, 1866.

(Signed) CUTHBERT BULLIT,
United States Marshal.

Claim of J. J. Poindexter.—Filed Feb. 3d, 1866.

10 Circuit court of the United States for the sixth judicial circuit and eastern dist. of Louisiana.

THE UNITED STATES
vs.
THE STEAMER COUNTESS, her tackle, apparel, and furniture, machinery, etc. } No. 3,754.

And now into this honorable court comes John J. Poindexter, and intervening for his own interests, claims the said property libelled and seized in the above-entitled case, to wit: The steamer, Countess, her tackle, apparel, furniture, machinery, &c., and alleges that he is the true and bona fide owner of said steamer Countess, her tackle, apparel, furniture, machinery, &c., and that no other person or persons is the owner thereof. And he prays that said property be restored to him, and for all general relief.

(Signed) J. J. POINDEXTER.
(Signed) A. P. FIELD,
Proctor for Claimant.

Sworn to and subscribed before me, this 3d day of February, 1866.
(Signed) F. B. VINOT, *D'y Clerk.*

11 *Petition and order to bond.—Filed Feb. 3d, 1866.*

THE UNITED STATES
vs.
THE STEAMER COUNTESS, her tackle, apparel, furniture, and machinery, &c. } No. 3,754.

To the hon. the judges of the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana:

The petition of J. J. Poindexter, who resides in New Orleans, and loyal to the government of the United States, respectfully represents

that he is the true and bona fide owner of the steamer Countess, her tackle, apparel, furniture, machinery, &c., libelled and seized in the above-entitled case; that he has filed and sworn to his claim to said property; that said steamer is now freighted with a valuable cargo, and her detention in this port would work great damage to shippers, and irreparable injury to this claimant.

12

Wherefore he prays that he be permitted to bond the said property and that the same be restored to his posession, and for general relief.

(Signed) A. T. FIELD, *Proctor for Claimant.*

Securities:

(Signed) JOHN HINE.
(Signed) N. O. DONAHEW.
(Signed) JOHN A. STEVENSON.

Order.

Let the steamer Countess be appraised by H. G. Heartt and R. L. Robertson, for the purpose of ascertaining its value, and let the petitioner, J. J. Poindexter, be permitted to bond said steamer upon his furnishing bond in an amount exceeding by one-half of the appraised value of said steamer, with good and solvent security, conditioned as the law directs, and upon payment of costs of appraisement.

13

New Orleans, February 3d, 1866.

(Signed) E. H. DURELL, *Judge.*

Bond for costs.—Filed Feb'y 3d, 1866.

UNITED STATES OF AMERICA, *Eastern Dist. of Louisiana, to wit:*

Personally appearing before me, the undersigned, United States commissioner for the eastern district of La., aforesaid, J. J. Poindexter, as principal, and Hugh Cassidy, as surety, do hereby acknowledge themselves, jointly and severally, to be indebted unto the United States in the full sum of two hundred and fifty dollars, lawful money of the United States, to be levied of their goods, chattels, lands, and tenements, the use of the said United States, and for the payment whereof they jointly and severally bind themselves, their heirs, executors, and administrators, firmly by these presents.

14

Whereas, in the matter of the United States *vs.* the steamer Countess, &c., No. 3,754 of the docket of the circuit court of the United States for the eastern district of Louisiana, a libel of information has been filed on behalf of the United States.

This obligation to be null and void, on condition that the said J. J. Poindexter shall abide by the final decree rendered in the cause, and pay all such costs, expenses, and damages as shall be awarded by the court, upon the final decree, whether it is rendered in the original or appellate court; otherwise this obligation to remain in full force and virtue.

(Signed) J. J. POINDEXTER. [L. S.]
(Signed) HUGH CASSIDY. [L. S.]

Signed and sealed at the city of New Orleans, this 3d day of Feb'y, 1866, in presence of—

(Signed) CHS. CLAIBORNE,
U. S. Comm'er in and for the East. Dist. of Louisiana.

15 *Notice to appraisers.—Issued Feb. 3d, 1866.*

United States circuit court eastern district of Louisiana.

UNITED STATES
vs.
STEAMER COUNTESS, &c. } No. 3,754.

To H. G. Heartt and R. L. Robertson:

Take notice that you have been this day appointed appraisers for the purpose of ascertaining the value of the property libelled in this case, and you are to file the report of your appraisement within the shortest possible delay.

By order of the court.

New Orleans, Feb'y 3d, 1866.

(Signed) F. B. VINOT, *D'y Cl'k.*

Marshal's return.

Received February 3d, 1866, and forthwith served a copy of the within notice on the appraisers named herein, by leaving it in
16 the hands of H. G. Heart, one of said appraisers.

Feb'y 3d, 1866.

(Signed) *J. J. PREIS, D'y U. S. Marshal.*

Appraisers' report.—Filed Feb'y 3d, 1866.

UNITED STATES
vs.
STEAMER COUNTESS. } No. 3,754.

To the hon. circuit court for the eastern district of Louisiana:

We, the undersigned appraisers to this honorable court, duly appointed and sworn, have the honor to report:

That on the third day of February, 1866, we proceeded on board steamboat Countess for the purpose of ascertaining her value; and after a careful and thorough examination, find that she is about five years old; built in Cincinatti, Ohio, 1860; her length is feet inches; breadth of beam feet inches; depth of hold feet inches, or tons burden.

17 The steamboat Countess draws two feet light, and four and a half feet loaded; was hauled out and repaired in November, 1865; is in good order; has two engines, and a doctor, two boilers; a side-wheel steamer.

She was built in Cincinatti, in the year 1860; very light draught

water, and profitable in low water, and we value her at the present time, twelve thousand dollars.

(Signed) RICH. L. ROBERTSON,
(Signed) H. G. HEARTT,
RICH'D L. ROBERTSON,
U. S. Appraisers, N. Orleans.

Appraisers' bill.—Filed Feb'y 3d, 1866.

APPRAISERS' DEPARTMENT, *N. Orleans, Feb'y 3d*, 1866.

In the matter of st. Countess, etc., No. 3,754. To appraisers' office, Dr.

For examining and appraising said steamer Countess, $12,000, at 1 per cent..... $120 00

18 *Order accepting surety on release bond.—From the minutes of Febr'y 3d*, 1866.

THE UNITED STATES
vs.
STEAMER COUNTESS. } No. 3,754.

Burdell Paris, one of the sureties offered on claimant's release bond, was this day examined in open court, and after hearing his evidence with regard to his solvency, was accepted to the extent of $3,000, and the claimant permitted to complete and perfect his bond before C. Claiborne, esq., U. S. commissioner.

Release bond.—Filed February 5th, 1866.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

Know all men by these presents, that we, J. J. Poindexter, of the city of New Orleans, claimant and owner of the steamer
19 Countess, her tackle, apparel, &c., as principal, and Burdett Paris, J. M. Hayle, and Hugh Cassidy, as sureties, are held and firmly bound unto the United States of America, libellant, in the sum of eighteen thousand dollars, ($18,000,) lawful money of the United States of America, for the payment whereof to the said United States, or assigns, we jointly and severally bind ourselves, our heirs, executors, administrators, firmly by these presents.

Witness our respective names and seals, hereunto affixed by us at New Orleans, this 5th day of February, one thousand eight hundred and sixty-six.

Whereas, an admiralty warrant was lately issued out of the honorable the circuit court of the United States of America for the eastern district of Louisiana, at the suit of the United States *vs.* the steamer Countess, her tackle, apparel, and furniture, and numbered 3,754 on the docket of said court, commanding the marshal to seize and take into his possession the steamer Countess, &c., which has been seized accordingly, but has been released from said seizure and de-

20 livered to J. J. Poindexter, the claimant and owner thereof, by reason of the signing, sealing, and delivery of these presents, said J. J. Poindexter having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now, the condition of the above obligation is such, that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree, rendered in the court to which the process is returnable or in any appellate court, then the foregoing obligation is to be void, but otherwise shall remain in full force and virtue.

	(Signed)	J. J. POINDEXTER.	[L. S.]
$3,000,	"	BURDETT PARIS.	[L. S.]
10,000,	"	J. M. HAYLE.	[L. S.]
5,000,	"	HUGH CASSIDY.	[L. S.]

Signed, sealed, and delivered in presence of—
(Signed) CH'S CLAIBORNE.

Indorsed: J. M. Hoyle and Hugh Cassidy sworn, say, they
21 reside in this city, and are worth, the former $10,000, and the latter $5,000, over and above all their debts and liabilities.
(Signed) J. M. HAYLE.
(Signed) HUGH CASSIDY.

Sworn and subscribed before me, this 5th day of February, 1866.
(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

5 ct. int. rev. stamp, cancelled.

Cancelled by order of the court, of date February 10, 1866.
(Signed) F. B. VINOT, *D'y Clerk.*

Writ of release.—Issued February 5th, 1866.

UNITED STATES CIRCUIT COURT, *Eastern District of Louisiana, ss:*

UNITED STATES *vs.* STR. COUNTESS, &c. } No. 3,754.

NEW ORLEANS, *Clerk's Office.*

The President of the United States of America to the marshal
22 of the eastern district of Louisiana, or his lawful deputy, greeting:

Whereas J. J. Poindexter, of said steamer, hath this day filed a claim thereto, on behalf of himself, and obtained leave of court to bond the same, and which said claim is now of record in this office, you are hereby authorized to release the said steamer from seizure, and her to restore to the possession and custody of said claimant, he

having given bond, conditioned as required by law, and otherwise complying with the rules of the court, &c., and make return hereon of your doings in the premises.

Witness the Hon. Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at New Orleans, this 5th day of February, 1866, and the 90th year of the independence of the United States.

(Signed) F. B. VINOT, *D'y Clerk.*

Marshal's return.

Received February 5th, 1866, and same day, month, and
23 year released the above-named boat unto Captain Burdett Paris, by giving to the said captain and order to the keeper to release said boat to said captain, and took his receipt for the same, which is hereunto annexed.

(Signed) J. J. PREIS,
Deputy U. S. Marshal.

New Orleans, February 5, 1866.

Receipt annexed to writ.

Received, New Orleans, February 5th, 1866, from Mr. Sealome Williams, st'bt. Countess, in good order.

Rule to reduce the valuation made by the appraisers.—From the minutes of February 5th, 1866.

THE UNITED STATES
vs.
STEAMER COUNTESS, &c. } No. 3,754.

On motion of A. P. Field, esq'r, proctor for claimant, and for reasons assigned in writing, ordered that the district attorney
24 show cause on Saturday, 10th instant, at 11 a. m., why the valuation of the appraisers should not be reduced to the sum the steamer Countess was worth before she was repaired.

Reasons filed February 5th, 1866.

U. S. district court.

UNITED STATES
vs.
THE STEAMBOAT COUNTESS.

And now on this day comes John G. Poindexter, by A. P. Field, his proctor, and upon representing to the court that said steamboat Countess, during the whole period of the rebellion, was in Red river in this State, and came to this city after hostilities had ceased, to wit, about the 12th of July, 1866, in the service of the United States, military authorities of this department. That she was much out of repairs and had been so long a time, so much so that she was not

worth more than five thousand dollars, and was condemned as unseaworthy, not been then libelled by the government for confis-
25 cation. The said claimants, since the time aforesaid, had said boat placed on the docks and thoroughly repaired at an expense of at least eight thousand dollars.

Order rule made absolute and cancelling release bond.—From minutes of February 10th, 1866.

UNITED STATES
vs.
THE STEAMER COUNTESS, &c. } No. 3,754.

The rule taken by the claimant on the 5th instant came up.

A. P. Field, esq., for plaintiff in rule.

District attorney for libellants.

When, after hearing the evidence, the court being satisfied that the claimant is entitled to the relief prayed for, ordered that the rule be made absolute, that the value of the boat before she was repaired be fixed at $3,500; that the bond to be furnished by the
26 claimant for the release of the steamer Countess be fixed at the sum of $5,250, which is one half over her value, and that the bond of $18,000, executed on 5th instant be cancelled and annulled.

Release bond.—Filed February 12, 1866.

UNITED STATES OF AMERICA, *Eastern District of Louisiana, ss:*

Know all men by these presents, that we, J. J. Poindexter of this city, claimant and owner of the steamer Countess, as principal, and Hugh Cassidy, and J. M. Hoyle as sureties, are held and firmly bound unto the United States, libellant, in the sum of fifty-two hundred and fifty dollars, lawful money of the United States of America, for the payment whereof, to the said United States or assigns, we jointly and severally bind ourselves, and heirs, executors, and administrators, firmly by these presents.

Witness our respective names and seals hereunto affixed by us at New Orleans, this 12th day of February, one thousand eight
27 hundred and sixty-six.

Whereas an admirality warrant was lately issued out of the honorable the circuit court of the United States of America, for the eastern district of Louisiana, at the suit of the United States *vs.* steamer Countess, her tackle, apparel, and furniture, and numbered 3,745 of the docket of said court, commanding the marshal to seize and take into his possession the said steamer, which has been seized accordingly, but has been released from said seizure and delivered to J. J. Poindexter, the claimant and owner thereof, by reason of the signing, sealing, and delivery of these presents, said Poindexter having obtained leave of court to bond said property, and filed a claim thereto, which is now of record in the clerk's office of this court:

Now, the condition of the above obligation is such, that if the said

claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree, rendered in the court to which the process is re-
28 turnable, or in any appellate court, then the foregoing obligation is to be void, but otherwise shall remain in full force and virtue.

(Signed) J. J. POINDEXTER. [L. S.]
(Signed) HUGH CASSIDY. [L. S.]
(Signed) J. M. HOYLE. [L. S.]

Signed, sealed and delivered in the presence of—
(Signed) K. LOEW.

J. M. Hoyle and Hugh Cassidy, being sworn, say they reside in this city and are worth, the former $3,500, the latter, $1,750, over and above all their liabilities.

(Signed) J. M. HOYLE.
(Signed) HUGH CASSIDY.

Sworn to and subscribed before me, this 12th February, 1866.
(Signed) CHS. CLAIBORNE, [SEAL.]
U. S. Commissioner.

30 c. United States revenue stamp, cancelled.

Answer of claimant.—Filed February 21, 1861.

29 UNITED STATES
vs.
THE STEAMER COUNTESS, her tackle, apparel, furniture, machinery, &c. } No. 3,754.

To the honorable the judges of the circuit court of the United States for the sixth judicial circuit and eastern district of Louisiana:

The answer of John J. Poindexter, owner and claimant of the steamer Countess, to the libel of information filed by the United States district attorney, against the steamer Countess, her tackle, apparel, furniture, machinery, &c., articulately alleges and propounds as follows:

1st. To the first article of the said libel he says that he admits the seizure of said steamer, her tackle, apparel, furniture, machinery, &c., but denies that the same was legally done.

2d. He admits the passage of the various acts of Congress, and the putting forth of the Presidential proclamation, mentioned in the second and third articles of the said libel, but says that they
30 have no applicability to the said steamer Countess, or owners thereof.

3d. And to the matter and things set forth in the fourth article of said libel, and the subsidiary clauses, or sub-divisions thereof, he says that everything therein contained and alleged tending to make the

said steamer Countess, her tackle, apparel, furniture, machinery, &c., liable to confiscation is altogether false and falsely alleged, the truth being that said boat never was used with the free will and consent of the owner thereof to aid the said Confederate States.

4th. And further answering, he alleges that he purchased the said steamer Countess, her tackle, apparel, furniture, machinery, &c., from William C. Harrison, on the 3d day of January, 1866, and that the said William C. Harrison had previously to said date, and before the seizure of said steamer in this case, availed himself of the pardon and amnesty proclaimed by the President of the United States on the 29th day of May, 1865, by taking the oath prescribed in the proclamation of that date, whereby he was restored to all of his
31 rights of property.

5th. And he further alleges, that before he purchased said steamer from said Harrison, and before the seizure of the same in this case, to wit, on the 14th day of July, 1865, this defendant had availed himself of the pardon and amnesty proclaimed by the President of the United States on the 29th day of May, 1865, by taking the oath prescribed in the President's proclamation of that date, and was thereby restored to all of his rights of property, and he now pleads said pardon and amnesty granted to said Harrison and to this defendant in bar of this libel.

6th. That all and singular the premises are true.

Wherefore he prays this honorable court to pronounce against the libel aforesaid, and otherwise law and justice in the premises administer.

(Signed) JOHN J. POINDEXTER.
(Signed) A. P. FIELD,
Proct. for Deft.

Sworn to and subscribed before me, this 21st February, 1866.
(Signed) F. B. VINOT, *Dy. Clerk.*

32 *Notice to take testimony.—Issued March* 6, 1866.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
THE STEAMER COUNTESS, her tackle, apparel, &c. } No. 3,754.

To A. P. Field, esq'r:

You are hereby notified that testimony will be taken in the above-entitled cause on Wednesday, the 7th day of March, 1866, at the clerk's office of this court, at 5½ o'clock p. m., on behalf of libellant.

(Signed) F. B. VINOT, *Dep'y Clerk.*

New Orleans, March 3d, 1866.

Marshal's return.

Received March 6th, 1866, and on the same day, month, and year served a copy of the within notice on A. P. Field, esq., personally, at his office on Commercial place in this city.

33 New Orleans, March 7, 1866.

(Signed) J. J. PREIS,
Deputy U. S. Marshal.

Testimony for libellants.—Filed March 7, 1866.

UNITED STATES
vs.
STEAMER COUNTESS. } No. 3,754.

Testimony taken March 7, 1866, at 5½ p. m. Present, district attorney and Shakelford for A. P. Field.

Wm. Stevens, sworn for U. S., says:

I saw the Countess at different times at Alexandria in '63, '64, and '65. Captain Harrison commanded her a portion of the time; when he did not command her, I don't know who supplied his place; don't know who owned the Countess. This was on Red river, Alexandria, that I knew her. A portion of the time above alluded to she run on private account, and occasionally as a confederate transport.

34 Have no recollection what she carried as a transport.

Cross-examined:

I know that she did carry freight for the confederates, but can't say what kind. I am satisfied from my knowledge about the Countess that her owners would not have carried conf. freight had they not been forced so to do. I knew that had the boat refused to carry freight and obey orders she would have been taken by the military.

Re-ex.:

The owners of the Countess desired to run her on private account, thinking they could make more that way. I have no recollection of any particular force being used to compel the Countess to do confederate service.

(Signed) W. STEVENS.

Sworn to and subscribed before me, this 7th March. 1866.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

F. V. Cellos, sworn for U. S., says:

35 I have been stationed at Alexandria as steamboat clerk in 1861, '62, '63, '64, and '65. I know the Countess. Don't know her owners. Saw her in Red river trade during the time above stated. Captain Harris commanded her at different times. The

Countess ran between Shreveport and Alexandria. Can't say how she was employed during that time. I have been on board sometimes. Have seen freight on her, but can't say what it was; don't remember. Saw no soldiers on board. Don't know that she was used by the confederates.

(Signed) FERD. V. CELLOS.

Sworn to and subscribed before me, this 7 March, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

J. C. Marsh, sworn for U. S., says:

I went to Shreveport in latter part of '62. Have seen the Countess about Shreveport in 1863. I think until about the time
36 of the surrender. She then run in the Red river. Mr. Poindexter was the reputed owner of the Countess. Mr. Paris commanded her a part of the time, and, I think, Mr. Poindexter a part. I saw him on board. Saw the Countess run up and down the Red river with corn, cotton, &c., like other boats. On one occasion I saw soldiers on board; they had come, rolled the cotton ashore, and took charge of the boat. This I saw but once. I mean I saw but once that she was taken by the conf. I have been on board but once, and saw some 2 or 300 soldiers on board, and I considered he was used as a transport for these troops; this was above Campte. and not at Shreveport.

(Signed) JNO. C. MARSH.

Sworn to and subscribed before me, this 7 March, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Commissioner.

Testimony for claimant.—Filed March 14, 1866, *and offered in*
37 *evidence by defendants May* 29, 1866.

UNITED STATES *vs.* STEAMER COUNTESS. } No. 3,754.

Testimony taken March 14, 1866, before Ch's Claiborne, U. S. commissioner. Present, ass't U. S. attorney, Shakelford for claimants.

R. H. Sullivan, duly sworn for claimant, says:

I am acquainted with Captain Poindexter. I saw him in November, 1863, on Red river at the falls, about 1½ mile above Alexandria. I had conversations with the capt. at that time; we had the same sentiments—not to stay in the confederacy. He advised me to go into the federal lines; he was coming as soon as he could get his boat below the falls; his only fear was that he had to wait an opportunity to pass Fort de Russy unnoticed. He had not to my
38 knowledge been working for the confederates to that time.

His boat was tied up, and his only object in staying there was to save his boat, and watch an opportunity to get into the federal lines with it. In 1861 I was boarding in his family, and he said to me when the first gun was fired that the country was gone, and that we ought to be satisfied with the government we had.

Cross-ex.:

I saw Capt. Poindexter but once during the war; that was at the time those conversations occurred. I don't know what the captain was doing during the intervals between those times. He was capt. of the Countess at the time I saw him; at least I suppose he was the captain; he was the owner; the boat was tied up. I don't know how the Countess was employed during the war. I resided in Arkansas, Jefferson county, in 1863.

Re-examined:

39 I was on my way from Arkansas to the city at the time I I saw Capt. Poindexter at the falls in Nov., 1863. I stayed about a week at the falls. I came to the city right direct from Alexandria.

(Signed) R. H. SULLIVAN.

Sworn to and subscribed before me, this 14 March, 1861.

(Signed) CH'S CLAIBORNE,
U. S. Com'ner.

Notice to take testimony.—Issued March 6th, 1866.

United States circuit court, eastern dist. of Louisiana.

UNITED STATES
vs.
STEAMER COUNTESS. } No. 3,754.

To A. P. Field, esq.,

You are hereby notified that testimony will be taken in the above-entitled cause on Tuesday, the 24 day of April, 1866, at the
40 clerk's office of this court, at 5½ o'clock p. m., on behalf of libellant.

New Orleans, April 23d, 1866.

(Signed) F. B. VINOT, *D'y Cl'k.*

Marshal's return.

Received April 23d, 1866, and on the same day, month, and year served a copy of the within notice on A. P. Field, esq., the attorney named within, personally, at his office, No. 21 Commercial place, in this city.

New Orleans, April 24th, 1866.

(Signed) M. EGAN, *D'y U. S. Marshal.*

Testimony for libellants.—Filed April 24th, 1866.

UNITED STATES
vs.
ST'R COUNTESS. } No. 3,754.

A. H. Mason, sworn for U. S., says:

41 I know the Countess. Don't know who owned her. She was in Red river part of '63 and '64 and '65. I could not tell the name of the capt. who commanded her. Tho' I know the person. Saw the Countess several times employed by the conf. government. Saw her carry quartermaster's and commissary supplies. Don't remember that she carried troops; neither that she carried a flag.

Cross-exa.:

In May, '64, directly after Gen'l Banks left Alexandria, I saw the Countess carry commissary supplies. She carried such supplies from Shreveport to Alexandria. She was ordered to do so by the conf. officers, and had no option. I was an officer in the conf. government employ.

Re-ex.:

I know nothing more than she was ordered by conf. officers to do service, and she had to obey.

(Signed) A. H. MASON.

42 Sworn to and subscribed before me, this 24 April, 1866.

(Signed) CH'S CLAIBORNE,
U. S. Com'ner.

Testimony for claimant.—Filed April 24th, 1866.

UNITED STATES
vs.
ST'R COUNTESS. } No. 3,754.

Henry Perkins, sworn for claimants, says: I know the Countess as well as other boats. I had a permit from Gen'l Kirby Smith to bring to N. Orleans 1,675 bales cotton from Alexandria. I employed Capt. Poindexter, of the Countess, to bring as much cotton on board his boat as she was capable to carry. She could bring only 600 bales, in consequence of low water. Some short times after Gen'l Smith and Gen'l Taylor refused to let the boat go, saying that she could not beyond the lines at the time. I engaged Capt. Poindex-
43 ter with his boat, the Countess. Poindexter said he was not very particular about the quantity of freight he had, as his only object was to get his boat out of the confederacy; that I could pay him just what I choosed. This occurred in October, 1863, I think.

Cross-ex.:

I have been residing in West Feliciana for 30 years and more. This took place in Alexandria. I had been but a few days at Alex-

andria when I made the agreement with Poindexter. Had arrived from Matamoras, where I had been on business. I had 1,675 bales of cotton 13 miles from Alexandria, for which I had obtained a permit from Kirby Smith to bring them out. I was anxious to bring this cotton out, and meeting Poindexter, accidentally, at Alexandria, approached him on the subject with delicacy, and having learned that he was exceeding anxious to bring his boat out, I made
44 the bargain with him. This cotton was mine; had bought it and paid for it. Kirby Smith and his authorities had taken from me on the Rio Grande, at Brownsville and neighborhood, 1,800 bales cotton and $6,000 in gold, under what they called the impressment act; and as a compensation and pittance for what they had taken from me, they allowed me to bring this cotton out, but subsequently revoked the order and refused to let boat and cotton go.

(Signed) H. PERKINS.

Sworn to and subscribed before me, this 24th April, 1866.

(Signed) CH'S CLAIBORNE, *U. S. Comm'r.*

Order continuance.—From minutes April 27th, 1866.

UNITED STATES
vs.
THE STEAMER COUNTESS. } No. 3,754.

By consent of counsel, ordered that this cause, fixed for to-
45 day, be continued indefinitely.

Notice to take testimony.—Issued May 9th, 1866.

United States circuit court, eastern district of Louisiana.

UNITED STATES
vs.
STEAMER COUNTESS. } No. 3,754.

To A. P. Field, esq.:

You are hereby notified that testimony will be taken in the above-entitled cause on Tuesday, the 10th day of May, 1866, at the clerk's office of this court, at 10 o'clock a. m., on behalf of libellant.

New Orleans, 9th May, 1866.

(Signed) F. B. VINOT, *D'y Cl'k.*

Marshal's return.

Received May 9th, 1866, and on the same day, month, and year served a copy of the within notice on J. P. Field, esq., the
46 att'y named herein, personally, at his office, No. 21 Commercial place, in this city.

New Orleans, May 10th, 1866.

(Signed) M. EGAN, *D'y U. S. Marshal.*

Testimony for libellants.—Filed May 10th, 1866.

UNITED STATES
vs. } No. 3,754.
ST'R COUNTESS.

Testimony on behalf of libellants, taken before Ch's Claiborne, U. S. comm'r, this 10th May, 1866, in presence of A. Miller, ass't dist. att'y, and A. P. Field, for claimant.

Geo. D. Hite, being duly sworn for libellants, says:

I resided in N. Orleans in 1861. I resided in N. O. till the 24th of April, 1862. I was acquainted with the st'b't Countess at that time; was agent for her then. She left here for Jefferson, Texas, about the 20th and 22d day of April, 1862. I left here for
47 Shreveport on the night of the 24th of April, 1862. I arrived in Shreveport on the last day of April, and remained there until the 21st day of January, 1865. I often saw the Countess whilst there. In January, 1863, I took charge of her as captain, and run her from Red river to Camden, Arkansas, on the Ouachita river. I saw her from January until May or June. I left her at that time. She was running then from Shreveport, Hurricane, and Carolina bluff, and Alexandria. She was employed by the conf. government during the time I commanded her. And afterwards she was employed by order from the commissary dept. for carrying corn. She was never employed in carrying troops. They gave us vouchers, what they called certified accounts. She has never been paid during the period I had charge of her. There was an agent who took
48 upon himself in 1861 to add a postscript to the advertisement that the Countess would carry soldiers free of charge. This was done without the approval of Mr. Harrison, then her captain and owner. The pretended agent's name was Wilson. I know that Capt. Harrison did not authorize Mr. Wilson to do that. The advertisement I put in had nothing of the kind in it at all. I do not know whether she carried confederate soldiers without charge at that time.

Cross-exa.:

The corn I carried, whilst I had charge of the boat, was carried under orders. The owners had no choice. Those orders were issued by the officers of the conf. gov't. These officers had a sufficient military force on the Ouachita and Red river to enforce the execution of those orders. I don't think there was any way for this boat to evade the performance of these orders. Had the capt. refused to obey the orders the boat would have been taken pos-
49 session of by the government, the captain be taken away, conscripted, and put in the conscript camp, and somebody else put in his stead on board the boat. Part of the time that I commanded the Countess she was in the conf. service against the consent of her owner.

Re-direct:

I did make objections to the Q. M. Buckner, in Shreveport, to carry corn. He threatened to put me in jail if I did not obey his orders. I objected because I could make more money at the same time on the outside. I was employed by Capt. Harrison, the owner, at that time. He gave me no instructions at the time he employed me to avoid conf. service.

Re-cross-ex.:

Had Capt. Harrison been captain of the boat himself he could not have avoided to go in confederate service.

(Signed) GEO. D. HITE.

50 Sworn to and subscribed before me, this 10th May, 1866.

(Signed) CH'S CLAIBORNE, *U. S. Comm'r.*

Order continuance.—From minutes May 21st, 1866.

UNITED STATES
vs.
THE STEAMER COUNTESS. } No. 3,754.

This cause was called for trial, and by consent of counsel, ordered to be continued until Saturday next, 26th inst., at 11 a. m.

Order continuance.—From minutes May 26th, 1866.

UNITED STATES
vs.
THE STEAMER COUNTESS. } No. 3,754.

By consent of counsel this cause is continued till Tuesday next, 29th inst., at 11 a. m.

51 *Note of evidence.—Filed May 29th, 1866.*

UNITED STATES
vs.
THE STEAMER COUNTESS. } No. 3,754.

Plaintiff offered files of the Daily Delta, of Nov. 28th, 1861, relating to the Countess' advertisement.

Defendants offered the oath of allegiance A & B, and the evidence taken in their behalf.

Capt. Harrison sworn for defendants:

Extract from Daily Delta, November 28th, 1866.

COAST AND LAFOURCHE.

Leaves every Thursday at 12 m., and every Saturday at 5 p. m.
New Orleans, coast and Lafourche passenger packet steamer Countess, drawing 18 inches, Wm. C. Harrison, master, will leave
52 as above positively, for the coast, Lafourche, and all inter-

mediate landings on the bayou. For freight or passage apply on board, foot of Bienville street, or to Geo. D. Hite, 3 Front street.

Passengers and shippers can rely on this boat remaining in the trade, and will go down the bayou every trip.

N. B.—All soldiers and goods for the army, or articles for the free market, carried free of charge by this boat.

Document A.—Oath of allegiance offered by defendants, May 29th, 1866.

CLERK'S OFFICE U. S. CIRCUIT COURT, SIXTH CIRCUIT,
EASTERN DISTRICT OF LOUISIANA,
New Orleans, May 19th, 1866.

This is to certify that J. J. Poindexter did, on the 14th July, 1865, take and subscribe the oath prescribed by the President's proclamation of May 29th, 1865, and that the same is registered
53 in this office for permanent preservation, bearing the No. 958.
(Signed) F. B. VINOT, *D'y Clerk.*

Document B.—Oath of allegiance offered by defendant, May 29th, 1866

CLERK'S OFFICE U. S. CIRCUIT COURT, SIXTH CIRCUIT,
EASTERN DISTRICT OF LOUISIANA.
New Orleans, May 19th, 1866.

This is to certify that William C. Harrison did, on the 13th June, 1865, take and subscribe the oath prescribed by the President's proclamation of May 29th, 1865, and that the same is registered in this office for permanent preservation, bearing the No. 92.
(Signed) F. B. VINOT, *D'y Clerk.*

Hearing and submission of cause.—From minutes May 29th, 1866.

54 UNITED STATES
vs.
THE STEAMER COUNTESS. } No. 3,754.

This cause came up for trial, dist. att'y for the United States; A. P. Field, esq., for defendants.

And after hearing the pleadings, evidence, and counsel, the court took time to advise.

Final decree.

Circuit court of the United States, sixth circuit and eastern district of Louisiana.—April term, 1866.

NEW ORLEANS, *Saturday, June 30th*, 1866.

Court met pursuant to adjournment. Present, the Hon. Edw. H. Durell, district judge.

UNITED STATES
vs.
THE STEAMER COUNTESS. } No. 3,754.

For reasons orally assigned by the court in the case of the United States *vs.* the steamer Frolic, No. 3,595 of the docket, it is

55 ordered, adjudged, and decreed that the libel be dismissed, and that the property seized be restored to the claimant upon the payment of all costs and a fee of $250 to the district att'y.

Judgment rendered June 30th, 1866.

Judgment signed June 30th, 1866.

(Signed) E. H. DURELL, *Judge.*

Petition of appeal.—Filed July 6th, 1866.

U. S. circuit court.

UNITED STATES
vs.
THE STEAMER COUNTESS, &c. } No. 3,754.

To the hon. the judges of the circuit court of the United States for the sixth circuit and east. district of Louisiana.

The petition of Jno. K. Goodloe, U. S. attorney, in the name and behalf of the United States of America, libellants herein, re-
56 spectfully represent:

That a final sentence and decree was entered on the 30th day of June, 1866, in the above-entitled suit, in the said circuit court for the east. dist. of La., in and by which said final sentence and decree it was ordered, adjudged, and decreed that the libel herein be dismissed, and that the property seized restored to the claimants; that said final sentence and decree is adverse to libellants and to their manifest injury and prejudice; that the matter in controversy exceeds in value the sum of two thousand dollars; that petitioner, in behalf as aforesaid, feels aggrieved by the rendition of said final decree, and is advised that the same is erroneous and ought to be reversed.

Wherefore petitioner, in behalf as aforesaid, doth hereby appeal from said final decree to the Supreme Court of the United States, returnable on the first Monday of next December, and prays this honorable court to grant him a suspensive appeal, the same to
57 operate as a supersedeas, and that said final sentence and decree may be reversed, and such other decree thereupon made as to the said Supreme Court shall seem just; and that a transcript of the record and proceedings in this cause, duly authenticated, may be sent up to the said Supreme Court without delay.

(Signed) C. S. KELLOGG,
Ass't U. S. Attorney.

Order.

An appeal to operate as a supersedeas is allowed in this case, as prayed for, returnable to the Supreme Court of the United States the first Monday of December next, the appellant being by law dispensed from giving bond and security in judicial proceedings.

July 6th, 1866.

(Signed) E. H. DURELL, *Judge.*

58 UNITED STATES OF AMERICA:

Circuit court of the United States, sixth circuit and eastern district of Louisiana.

CLERK'S OFFICE.

I, Charles Claiborne, clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, do hereby certify that the foregoing 57 pages contain and form a full, complete, true, and perfect transcript of the record and proceedings had, together with all the evidence adduced on the trial of the case of the United States *vs.* the steamer Countess, her tackle, apparel, &c., No. 3,754 of the docket, so far as the same now remain of record or on file in said court.

Witness my hand and the seal of said court, at the city of New Orleans, this 18th day of August, A. D. 1866.

[SEAL.] CH'S CLAIBORNE, *Clerk.*

[5-ct. int. rev. stamp.]

I, E. H. Durell, United States judge for the eastern district of Louisiana, do hereby certify that Charles Claiborne, whose name is signed to the above certificate as clerk of the circuit court of the United States for the sixth circuit and eastern district of Louisiana, was, at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

Given under my hand and seal, at the city of New Orleans, in said district, this 18th day of August, A. D. 1866.

E. H. DURELL, *Judge.*

[5-ct. int. rev. stamp.]

59 THE UNITED STATES OF AMERICA,
Eastern District of Louisiana:

The President of the United States to John J. Poindexter, claimant and defendant, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States to be holden at the city of Washington, on the first Monday of December next, pursuant to a petition and order of appeal filed in the clerk's office of the circuit court of the United States for the 6th circuit and eastern district of Louisiana, to answer the appeal taken by the United States of America in this cause, and that you show cause, if any there be, why the judgment rendered against the said United States, as in said petition mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, this 7th day of July, in the year of our Lord one thousand eight hundred and sixty-six.

E. H. DURELL, *Judge.*

60 *Marshal's return.*

Received July 12th, 1866, and on the same day, month, and year served a copy of the within citation on John J. Poindexter, claimant and defendant named herein, by leaving the same in the hands of A. P. Field, esq., attorney for said Poindexter, in the U. S. court room in this city.

M. EGAN, *D'y U. S. Marshal.*

New Orleans, July 12th, 1866.